

Part III - Administrative, Procedural, and Miscellaneous

Determination of Gross Receipts for Purposes of Section 501(c)(15)

Notice 2006-42

SECTION 1. PURPOSE

This notice provides guidance as to the meaning of “gross receipts” for purposes of § 501(c)(15)(A) of the Internal Revenue Code.

SECTION 2. BACKGROUND

Section 501(a) of the Code provides generally that an organization described in § 501(c) shall be exempt from federal income taxation. An insurance company (as defined in § 816(a)), other than a life insurance company, is described in § 501(c)(15), and is therefore exempt from income tax under § 501(a), if its gross receipts for the taxable year do not exceed \$600,000 and more than 50 percent of those gross receipts consist of premiums. Section 501(c)(15)(A)(i). A non-life mutual insurance company not meeting the requirements of the previous sentence is nonetheless described in § 501(c)(15) if its gross receipts for the taxable year do not exceed \$150,000 and more than 35 percent of those gross receipts consist of premiums. Section 501(c)(15)(A)(ii). Amounts received by all members of the insurance company's controlled group (as defined in section 501(c)(15)(C)) are taken into account for purposes of these tests.

Section 501(c)(15)(B).

The gross receipts and percentage of income from premium requirements described above were added to the Code in 2004 by § 206 of the Pension Funding Equity Act, Pub. L. No. 108-218 (the “Act”). The legislative history of the Act states that “it is intended that the provision not permit the use of small companies . . . to shelter investment income”. H.R. Conf. Rep. 108-457, at 48 (2004).

SECTION 3. DETERMINATION OF GROSS RECEIPTS

This notice advises taxpayers that the Service will include amounts received from the following sources during the taxable year in "gross receipts" for purposes of § 501(c)(15)(A):

- A. Premiums (including deposits and assessments), without reduction for return premiums or premiums paid for reinsurance;
- B. Items described in § 834(b) (gross investment income of a non-life insurance company); and
- C. Other items that are properly included in the taxpayer's gross income under subchapter B of chapter 1, subtitle A, of the Code.

Thus, gross receipts include both tax-free interest and the gain (but not the entire amount realized) from the sale or exchange of capital assets, because those items are described in § 834(b). Gross receipts do not, however, include amounts other than premium income or gross investment income unless those amounts are otherwise included in gross income. Accordingly, the term gross receipts does not include contributions to capital excluded from gross income under § 118, or salvage or

reinsurance recovered accounted for as offsets to losses incurred under § 832(b)(5)(A)(i).

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Sarah R. Katz of TE/GE Division, Exempt Organizations. For further information regarding this notice, contact Ms. Katz at (202) 283-8934 (not a toll-free call).